

Trans

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

10,618

FILE: B-194454

DATE: June 29, 1979

MATTER OF: 3M Business Products Sales, Inc.

DL601989

DIGEST:

1. Where request for extension of closing date for receipt of proposals because of adverse weather conditions is denied, integrity of competitive procurement system would be adversely affected if late offer is thereafter permitted to be considered.
2. Agency need not extend closing date for receipt of proposals where reasons therefor show decision is not arbitrary or capricious.

ABC00026

3M Business Products Sales, Inc. (3M) protests the Social Security Administration (SSA) refusal to extend the proposal due date for request for proposals (RFP) 79-0033, a procurement of 30 automated text-editing terminals for the Office of Data Services. The basis for the requested extension was the extreme adverse weather conditions encountered in the Washington D.C. area during the period immediately preceeding the due date, which 3M asserts precluded it from completing its proposal in time for the scheduled submission.

The proposed procurement was announced in the Commerce Business Daily on October 26, 1978, and the solicitation was issued to 96 firms on November 29, 1978. Because of several minor changes in the technical area and the receipt of numerous vendor inquiries, five amendments were issued extending the closing date for receipt of proposals from December 29, 1978, to February 21, 1979, at 3:00 p.m. The fifth amendment was mailed to the prospective offerors on February 8, 1979, some 13 calendar days prior to the extended closing date. Proposals were to be received at SSA offices in Baltimore, Maryland.

Involving Request for
[Protest ~~Request~~ Requeste
Bid Extension]

005740

A heavy snowstorm struck the Washington/Baltimore area over the holiday weekend preceeding the closing date which caused the Government and many private concerns to remain closed until Wednesday, February 21, 1979.

On the morning of February 21, the contract specialist responsible for the procurement received a phone call from the representative of 3M who inquired whether there would be an extension of the closing date because of the snow emergency. The contracting specialist refused the request because he believed that 3M had adequate time to prepare its proposal and a further extension to accommodate 3M would constitute an undue advantage over offerors who submitted timely proposals. In this respect, the record indicates that the closing date had been extended five times for a total of 7 1/2 weeks, the revision contemplated by the 5th amendment required only a minimum time to complete, and proposals had already been received from five offerors. 3M alleges that it received the 5th amendment in its Washington, D.C. offices on Friday, February 16, and planned to finalize its figures on the following Monday. However, 3M asserts its personnel were unable to reach their office to complete the proposal because of the disruption caused by the snowstorm. Thus 3M contends that because of the circumstances the closing date should have been extended, as was done by other agencies, and that its proposal should now be accepted and considered.

We find no merit to 3M's request that its proposal be considered because of the extraordinary weather conditions even though it was not submitted by the closing time specified in the RFP. We believe that maintenance of Government procurement standards assuring all potential offerors that they will be treated equally and impartially is of greater importance than realizing whatever advantage that might result from making an exception in a single procurement. Falcon Research & Development Co., B-188321, May 4, 1977, 77-1 CPD 306. Thus in Falcon we observed that:

"Where it is anticipated that inclement weather will prevent timely * * * delivery of an offer or bid the appropriate relief, if any, is an extension of the closing or bid opening date. If due consideration * * * is given to such a request prior to the due date and is denied, we believe it would adversely affect the integrity of the competitive procurement system, if a late bid or offer thereafter is permitted to be considered."

In National Small Business Association, B-184052, September 26, 1975, 75-2 CPD 196, we said that the determination of the date to be specified for receipt of proposals is a matter of judgment vested in the contracting agency, and that we will not substitute our judgment unless it appears that the decision of the agency was arbitrary or capricious.

In view of the facts of this case, we believe the agency's decision to deny an extension ^{who not} cannot be ~~considered to be arbitrary or capricious.~~ For example, the procurement was advertised nearly 4 months before the extended closing date, and the solicitation was issued to the offerors nearly 3 months before that date. In addition, as we have previously noted, five offers were already submitted by the time the request for an extension was made (ultimately seven timely proposals were received) from firms which for the most part were subject to the same adverse weather conditions. Finally, granting 3M's request for an extension on the day proposals were due could have been considered unfair to those offerors who successfully endeavored to submit their offers on time. Presnell-Kidd Associates, B-191394, April 26, 1978, 78-1 CPD 324.

^{also}
The protest is denied.

R. J. K. 11/12
Acting Comptroller General
of the United States